

OFFICIAL COPY

Fresno, California

August 16, 2005

The City Council met in regular session at the hour of 8:30 a.m. in the Council Chamber, City Hall, on the day above written.

Present:	Tom Boyajian	Councilmember
	Brian Calhoun	Councilmember
	Jerry Duncan	Acting Council President
	Henry Perea	Councilmember
	Cynthia Sterling	Councilmember
	Larry Westerlund	Councilmember
	Mike Dages	Council President

Andy Souza, City Manager
Hilda Cantu Montoy, City Attorney
Becky Klisch, City Clerk
Yolanda Salazar, Assistant City Clerk

President Dages gave the invocation and Councilmember Duncan led the Pledge of Allegiance.

ADD-ON: PROCLAMATION OF HIV/AIDS AWARENESS DAY - COUNCILMEMBER STERLING

Read and presented.

SPCA PET OF THE MONTH - COUNCILMEMBER BOYAJIAN

Not presented.

APPROVE MINUTES OF JULY 26, 2005

On motion of Councilmember Perea, seconded by Councilmember Sterling, duly carried, RESOLVED, the minutes of July 26, 2005, approved, *as corrected*, by Councilmember Westerlund on Page 146-18, Item 3-B, Paragraph 4, seventh sentence, changing "an unidentified code enforcement staff member" to "Interim Code Enforcement Manager Robertson" ...etc.

COUNCIL MEMBER REPORTS AND COMMENTS:

REQUEST STAFF TO SCHEDULE ON THE NEXT AGENDA POSSIBLE ACTION THE CITY CAN TAKE TO GET THE SANTA FE DEPOT OPERATING - COUNCILMEMBER STERLING

Request made with City Attorney Montoy noting the matter was scheduled for closed session this date and options would be discussed at that time.

PROBLEM ENCOUNTERED CALLING 9-1-1 BY CELL PHONE - COUNCILMEMBER DUNCAN

Councilmember Duncan noted he witnessed a brush fire on Freeway 41 near Ashlan last Friday and advised he did not get an answer when he dialed 9-1-1 on his cell phone and wanted people to be aware of the challenges with cell phones and the CHP answering calls.

(1) REQUEST STAFF TO PLACE ON THE WEEKLY M-CAR LIST THE PARK LAND PURCHASED ON THE FIG GARDEN TO KEEP FOCUS ON THE ISSUE; AND (2) 8/7/05 NEW YORK TIMES ARTICLE BY DAVID BROOKS RELATIVE TO DEALING WITH DIFFICULT ISSUES AND CHALLENGES FACING THE COUNTRY - COUNCILMEMBER CALHOUN

146-24**8/16/05**

(1) Request made, and (2) Councilmember Calhoun read portions of the article into the record stating the challenges written about could be identified with Fresno and stated Fresno was in the middle of a revival at this time and explained.

REQUEST CITY MANAGER TO DIRECT PUBLIC WORKS TO INFORM/NOTIFY DISTRICT 7's OFFICE WHEN ALLEY GATES ARE INSTALLED - COUNCILMEMBER PEREA

Request made.

PALM LAKES GOLF COURSE ISSUE - COUNCILMEMBER WESTERLUND

Councilmember Westerlund thanked all the volunteers who participated in the work day and gave a brief update on the Palm Lakes RFP.

(1) REQUEST STAFF GIVE NOTIFICATION OF MEETINGS INVOLVING DEVELOPMENTS IN SOUTHEAST FRESNO, AND (2) PROBLEMS OCCURRING WITH DEVELOPERS TRENCHING ROADS AND NOT PATCHING UP POT HOLES - PRESIDENT DAGES

President Dages noted a meeting was held recently on a change with Minnewawa Avenue and he was not informed of it and he felt it was done behind his back, and requested he be notified whenever these meetings are held; and advised of two locations where pot holes had not been filled in by developers, with City Manager Souza responding.

APPROVE AGENDA:

(9:55 A.M.) CONTINUED HEARING ON CFD NO. 2, ANNEXATION NO. 98, FINAL TRACT MAP NO. 5261

1. RESOLUTION - ANNEXING TERRITORY
2. RESOLUTION - CALLING A SPECIAL MAILED-BALLOT ELECTION
3. RESOLUTION - DECLARING ELECTION RESULTS
4. BILL - LEVYING A SPECIAL TAX FOR PROPERTY TAX YEAR 2005-2006 AND FUTURE TAX YEARS

(CONTINUE TO AUGUST 30, 2005, AT 10:35 A.M.)

Continued as noted.

(1-M) APPROVE SALARY INCREASE AND ADDITIONAL ADMINISTRATIVE LEAVE FOR THE CITY ATTORNEY - PRESIDENT DAGES

President Dages advised the matter should not have been scheduled under the Consent Calendar and moved it to General Administration for discussion.

(1-L) APPROVE AMENDMENTS TO THE FY 1996, 1997 AND 2005 ANNUAL ACTION PLANS DELETING \$173,888.89 OF CDBG FUNDS PREVIOUSLY APPROPRIATED TO THE CLOSED-OUT NEIGHBORHOOD REVITALIZATION PROGRAM AND USING THOSE FUNDS FOR THE PRE-DEVELOPMENT OF A SERVICE CENTER PROJECT IN SOUTHWEST FRESNO

Removed from the agenda at the request of staff/to be rescheduled in one week. Councilmember Sterling later requested her office be included as this was in her district.

(1-A) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO A CONTRACT WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO PROVIDE SCHOOL RESOURCE OFFICER SERVICES TO THE DISTRICT

Capt. Garner advised negotiations resulted in Fresno Unified paying 50% of the cost for the officers and not 60% as indicated in the staff report and corrected the report to reflect the 60%, and further advised one sentence in the contract would be removed relative to workers compensation that was inadvertently left in. So noted and corrected.

On motion of Councilmember Westerlund, seconded by President Dages, duly carried, RESOLVED, the **AGENDA** hereby approved, as modified, by the following vote:

146-25

8/16/05

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

ADOPT CONSENT CALENDAR:

Councilmember Westerlund pulled Items **1-B** and **1-F** from the consent calendar for discussion, Councilmember Boyajian pulled Item **1-I**, and President Dages pulled Item **1-E**.

Gloria Torrez spoke to Item **1-A** stating she hoped the program would educate students to not trespass, litter or destroy people's property; spoke in support of Item **1-C** stating she was a survivor of a violent crime and added people with integrity needed to be part of the program; and relative to Item **1-D** stated she hoped the money would go where it was supposed to go.

Barbara Hunt, 2475 S. Walnut, spoke in support of Item **1-A**, spoke in general to Item **1-K**, and requested Council to be cautious with Item **1-L**.

(1-A) AUTHORIZE THE CHIEF OF POLICE TO ENTER INTO A CONTRACT WITH THE FRESNO UNIFIED SCHOOL DISTRICT TO PROVIDE SCHOOL RESOURCE OFFICER SERVICES TO THE DISTRICT, AS CORRECTED EARLIER DURING "APPROVE AGENDA"

(1-C) RESOLUTION NO. 2005-340A - AUTHORIZING ACCEPTANCE OF \$1,224,751 IN GRANT FUNDING FROM THE U.S. DEPARTMENT OF JUSTICE, NATIONAL INSTITUTE OF JUSTICE, FOR THE POLICE DEPARTMENT'S "SOLVING COLD CASES WITH DNA" GRANT PROGRAM

1. RESOLUTION NO. 2005-340B - 1ST AMENDMENT TO AAR 2005-285 APPROPRIATING \$514,100 TO THE POLICE DEPARTMENT FOR THE PROGRAM

2. RESOLUTION NO. 2005-341 - 5TH AMENDMENT TO PAR 2005-287 ADDING ONE POSITION TO THE POLICE DEPARTMENT FOR THE PROGRAM

(1-D) RESOLUTION NO. 2005-342 - APPROVING PARTICIPATION IN THE FEDERAL EQUITABLE SHARING AGREEMENT PROGRAM FOR THE DISPOSITION OF FUNDS FORFEITED IN CONNECTION WITH A CRIME, AND AUTHORIZING THE CITY MANAGER AND CHIEF OF POLICE TO EXECUTE RELATED DOCUMENTS

(1-G) RESOLUTION NO. 2005-343 - CONSIDERING A CHANGE IN THE SERVICES AND THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 61, FINAL TRACT 4598 OF CFD NO. 2

(1-H) APPROVE THE REAPPOINTMENT OF MICHAEL MCDONALD AND APPOINTMENTS OF EDGAR DEATHERAGE AND GAYLE "CINDY" CARESS TO THE CIVIL SERVICE BOARD, AND THE APPOINTMENT OF MIKE RASTEGAR TO THE FRESNO METROPOLITAN FLOOD CONTROL DISTRICT - MAYOR AUTRY

(1-J) RESOLUTION NO. 2005-344 - 13TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$45,300 TO THE PARKS & RECREATION DEPARTMENT'S "RECREATION CLUBS FUND" TO BE USED FOR VARIOUS CLUB ACTIVITIES AT COMMUNITY CENTERS AND PARK SITES

(1-K) AUTHORIZE ACCEPTANCE OF A \$60,000 RESOURCE CONSERVATION FUND GRANT FROM ENVIRONMENTAL PROTECTION AGENCY (EPA) FOR RESEARCH/ANALYSIS/PUBLIC OUTREACH TO PROMOTE REGION-WIDE RESIDENTIAL SUSTAINABLE BUILDING METHODS AND CONSTRUCTION WASTE REDUCTION THROUGH THE IMPLEMENTATION OF THE CITY'S GREEN BUILDING DEMONSTRATION PROJECT

1. RESOLUTION NO. 2005-345 - 10TH AMENDMENT TO AAR 2005-286 APPROPRIATING THE \$60,000 TO THE PLANNING & DEVELOPMENT DEPARTMENT/HOUSING AND COMMUNITY DEVELOPMENT DIVISION

2. APPROVE THE CITY'S PARTICIPATION IN THE PROGRAM INCLUDING AUTHORIZING STAFF TO NEGOTIATE AND ENTER INTO A GRANT AGREEMENT WITH THE EPA FOR IMPLEMENTATION OF THE PROJECT, SUBJECT TO PRIOR APPROVAL AS TO FORM BY THE CITY ATTORNEY'S OFFICE

Councilmember Perea commended the housing division on the grant.

146-26

8/16/05

(1-N) BILL NO. B-82 - ORDINANCE NO. 2005-84 - AMENDING SECTION 2-1703(a)(4) OF THE FRESNO MUNICIPAL CODE RELATING TO RESIDENCY REQUIREMENTS FOR OUTSIDE RETIREMENT BOARD MEMBERS

1. BILL NO. B-83 - ORDINANCE NO. 2005-85 - AMENDING SECTION 2-1803(a)(4) OF THE FRESNO MUNICIPAL CODE RELATING TO RESIDENCY REQUIREMENTS FOR OUTSIDE RETIREMENT BOARD MEMBERS

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled **CONSENT CALENDAR** hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(1-O) BILL NO. B-78 - ORDINANCE NO. 2005-86 - ADOPTING CHANGES AND ADDITIONS TO THE OFFICIAL LIST OF TRUCK ROUTES DESIGNATING STREETS FOR THE MOVEMENT OF VEHICLES EXCEEDING 12,000 POUNDS MAXIMUM GROSS WEIGHT

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Bill No. B-78 adopted as Ordinance No. 2005-86, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Dages
 Noes : Westerlund
 Absent : None

(9:00 A.M.) PUBLIC COMMENT PERIOD:

(A) SCHEDULED COMMUNICATIONS:

1. APPEARANCE BY COLIN DOUGHTERTY, COMCAST MEDIA AND COMMUNICATIONS MANAGER, TO INTRODUCE "VIDEO ON DEMAND" (VOD), A NEW SUBSCRIBER SERVICE

Not present when called.

2. APPEARANCE BY KAROLYN PETRAKIS REQUESTING COUNCIL TAKE ACTION REGARDING A CODE VIOLATION RECEIVED FOR REMOVAL OF RUBBISH IN AN ALLEY

Not present when called.

(B) UNSCHEDULED COMMUNICATION:

APPEARANCE BY GLORIA TORREZ REQUESTING THE CITY CONTACT SENATOR JACKIE SPEER TO OBTAIN DETAILS OF SB 861 RELATIVE TO BANNING OF PIT BULL DOGS AND SPEAKING TO THE NEED TO ENFORCE THE LEASH LAW

Appearance made with Ms. Torrez stating the dog owners were the problem and not the dogs. No action taken.

APPEARANCE BY BARBARA HUNT REGARDING (1) PROBLEMS WITH SCHOOL DISTRICT BOUNDARIES; (2) THE ILLEGALITY OF COUNCIL ACTING AS THE REDEVELOPMENT AGENCY; AND (3) CONCERN WITH SOUTHWEST FRESNO BEING NONEXISTENT THE GENERAL PLAN

Appearance made; no action taken.

(1-M) APPROVE SALARY INCREASE AND ADDITIONAL ADMINISTRATIVE LEAVE FOR THE CITY ATTORNEY - PRESIDENT DAGES

146-27

8/16/05

President Dages gave a brief overview of the issue as contained in his report to Council as submitted, and made a motion to approve a salary increase of \$166,000 based on merit and equity and an additional 32 hours of administrative leave, which motion was seconded and later acted upon.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Councilmember Westerlund noted he requested information be provided to him relative to the Brown Act and publicly discussing salary specifics, with City Attorney Montoy advising she sent information yesterday that expressly stated employee performance can be discussed in a personnel closed session but actual salary considerations are to be made in public.

Councilmember Boyajian stated the \$13,000 increase bothered him, expressed concern with the lack of consistency noting some people were receiving raises and others weren't, and stated although he agreed the city attorney deserved a raise he did not agree with the proposed increase. Councilmember Perea concurred and questioned how the \$166,000 figure was derived, with President Dages stating he came up with the figure and explained his rationale **(2 - 0)**. Councilmember Perea stated he was uncomfortable with the 9% increase and would like to have seen a raise consistent with what was given to the bargaining units.

President Dages thanked Ms. Montoy for all she does and has done stating she performs a very difficult task and added he felt the proposed raise was not enough noting her ten years of experience as city attorney.

A motion of President Dages, seconded by Councilmember Sterling, to approve a salary increase of \$166,000 based on merit and equity and an additional 32 hours of administrative leave failed, by the following vote:

Ayes :	Calhoun, Sterling, Dages
Noes :	Boyajian, Duncan, Perea, Westerlund
Absent :	None

President Dages requested Council come up with an appropriate salary and extensive discussion ensued. Councilmember Boyajian again spoke to the need for, and importance of, being consistent with raises for all employees and suggested a closed session be held to get Council input. President Dages stated he preferred to do this in open session, noted his proposed figure came out to 3% a year since Ms. Montoy had not received a raise since 2002, and questioned if Council wanted to approve a 3% increase this date. Councilmember Calhoun stated President Dages was well within his responsibilities, he was disappointed with the vote just taken, he heard mainly good things in closed session on Ms. Montoy's performance and the word *outstanding* was used appropriately, emphasized Ms. Montoy had seven bosses and besides elected officials the entire city organization relied on her, and stated her not getting a raise went on far too long, the vote was saying she was not deserving, and he would not support going back into closed session.

Councilmember Calhoun made a motion to approve a salary increase of \$164,000, which motion was seconded by Councilmember Sterling. Councilmember Westerlund also expressed concern with the 9% and agreed consistency with the other bargaining units was needed, and stated he would support the new motion but without the additional 32 hours, and upon question Councilmember Calhoun clarified the additional 32 hours were part of his motion. Councilmember Sterling stated the entire city organization is under the city attorney's agenda at some point, cautioned Council about the message they were sending to the city's legal department, and added a grave message that Council cannot come together was also being sent to other city employees.

City Attorney Montoy stated even though she did not receive additional administrative leave hours last year she would forgo them as she was starting to lose vacation time due to the difficulty of taking time off.

Upon question of President Dages, Councilmember Calhoun stated he would not force Ms. Montoy to take the additional hours, he was very disappointed, withdrew his motion on the floor, and made a new motion to approve \$166,000 without the 32 hours of administrative leave, which motion was seconded by Councilmember Sterling. President Dages reiterated Ms. Montoy had not received an increase in three years and the other bargaining units had, and pointed out last year or the year before she volunteered to not take a raise.

A motion of Councilmember Calhoun, seconded by Councilmember Sterling, to approve a salary increase of \$166,000 based on merit and equity *without* the additional administrative leave hours failed, by the following vote:

146-28

8/16/05

Ayes : Calhoun, Sterling, Dages
 Noes : Boyajian, Duncan, Perea, Westerlund
 Absent : None

Councilmember Westerlund made a motion to approve \$164,000 without additional administrative leave hours, which motion was seconded by Councilmember Duncan.

Councilmember Calhoun expressed his strong concern with the issue, stated he was mad at what was before Council and questioned why he should have to vote on something that was a cheap shot, and stated he would not be part of the game playing, he was embarrassed, and he would not support the motion based on principal. Councilmember Boyajian stated he did not bring this issue up, games were not being played, he was making an honest opinion based on what he thinks, clarified all he was saying was Council needed to be consistent, strongly requested no one try to intimidate him or politicize the matter, and further stated he did not agree with a lot of the city attorney's legal opinions and explained. Councilmember Sterling stated she would support the motion to move this matter forward and added she hoped everyone was paying attention to what was happening here. Councilmember Westerlund stated Council needed to take a couple of deep breaths, noted honest debate was occurring which oftentimes does not as a lot of matters are usually decided without real give and take, agreed with Councilmember Boyajian that no politics were being played, and stated he was trying to compromise and added open representative democracy was occurring and this was the way it worked.

On motion of Councilmember Westerlund, seconded by Councilmember Duncan, duly carried, RESOLVED, a salary increase of \$164,000 based on merit and equity hereby approved, *without* additional administrative leave hours, by the following vote:

Ayes : Duncan, Perea, Sterling, Westerlund, Dages
 Noes : Boyajian, Calhoun
 Absent : None

(9:30 A.M. #1) APPROVE AN AGREEMENT WITH CALTRANS TO PROVIDE A FREEWAY LITTER CLEAN-UP PROGRAM WITH THE USE OF INMATE LABOR

1. RESOLUTION NO. 2005-346 - 12TH AMENDMENT TO AAR 2005-286 APPROPRIATING \$168,000 RECEIVED FROM CALTRANS TO THE POLICE DEPARTMENT FOR THE PROGRAM

2. RESOLUTION NO. 2005-347 - 6TH AMENDMENT TO PAR 2005-287 ADDING A POSITION IN THE POLICE DEPARTMENT FOR THE PROGRAM

-and-

(9:30 A.M. #2) APPROVE A CONTRACT WITH THE COUNTY OF FRESNO AUTHORIZING THE CITY THE USE OF INMATE LABOR ON GOVERNMENT-OWNED FACILITIES AND GROUNDS

Mayor Chief of Staff White gave an extensive overview of #1, including the history of the issue, and Chief Dyer spoke further to the agreement and to the actions being requested this date.

Speaking to the issue were: Barbara Hunt, 2475 S. Walnut, support; Gloria Torrez, who spoke to the blight and litter problem; and Paul McLain, Local Conservation Corps (LCC), who spoke to the City's median island landscaping program, LCC's 10 years of work with the city, and the value they provide.

Councilmember Duncan noted the freeway program was county-wide and questioned how making freeways within the city a priority would be managed, if the wording "*inmate labor may be used for weed removal*" could be changed to "*will be used*", litter being a problem but the proliferation of weeds being a very dangerous problem, and if using inmate labor to remove weeds could be made a specific part of the program **(3 - 0)**, with Chief Dyer responding throughout. A motion and second was made to approve staff's recommendation for item #1.

Chief Dyer, City Manager Souza and Transportation Affairs Manager Madewell responded to questions and/or comments of Councilmembers Westerlund, Perea and Sterling relative to whether #2 was a new program for the police department, the lunch that would be provided by the County, suggestion to use the inmate labor at Palm Lakes golf course, how #2 would affect the work of the LCC, if the LCC's work would be reduced, the EOC's and LCC's relationship with the City, the work/service the organizations provide and value to the City, and request for assurance their work will not be reduced.

Upon question of President Dages, the motion was amended to approve staff's recommendations for both #1 and #2.

146-29

8/16/05

Mr. Madewell and City Attorney Montoy responded to questions of Councilmember Calhoun relative to whether the City had a formal contract with LCC, why there was no contract, and why an inter-agency agreement with LCC was not before Council, with and Ms. Montoy clarifying LCC matters were not at issue at this time and the two subject contracts would not impact negotiations with EOC.

Barbara Hunt, 2485 S. Walnut, spoke in support of #2.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, #1: an agreement with the State of California (Caltrans) to provide a Freeway Litter Clean Up Program with the use of inmate labor hereby approved, and the above entitled Resolution Nos. 2005-346 and 2005-347 hereby adopted; and #2: a three (3) year agreement with the County of Fresno authorizing the City to use inmate labor, supplied by the County, to perform work on government-owned facilities and grounds hereby approved, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes : None
Absent : None

(10:00 A.M.) CONTINUED HEARING ON LANDSCAPING AND LIGHTING MAINTENANCE DISTRICT (LLMD) NO. 1
1. RESOLUTION NO. 2005-348 - CONFIRMING THE DIAGRAM AND ASSESSMENT AND LEVY OF AN ANNUAL ASSESSMENT, 2005-2006 LLMD NO. 1

President Dages announced the time had arrived to consider the issue and opened the hearing. Senior Engineering Technician Paff gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Mr. Paff, City Attorney Montoy and City Manager Souza responded to questions/comments of Councilmember Duncan relative to whether the fee would increase the assessment or if it was just enough for maintenance, if fees have changed since the district was implemented, how often maintenance would occur, what needed to be done to increase the assessment for guaranteed 3-month service, and need for staff to make an effort to see if people would support an increase for regular service. Councilmember Duncan made a motion to approve staff's recommendation. Councilmember Calhoun concurred with the need to increase fees, stressed there was not enough money for the service and taxpayer dollars were being taken to subsidize other areas and elaborated, and urged Council to quit approving these items and send a message to staff and added stated he would vote "no" on principal. City Manager Souza spoke to the consequence of not approving the matter, strongly recommended approval and for Council to direct staff to report back with options, and stated LLMDs were different from CFDs and explained.

On motion of Councilmember Duncan, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-348 hereby adopted, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages
Noes : Calhoun
Absent : None

(10:15 A.M.) HEARING ON REZONE APPLICATION NO. R-04-55 AND ENVIRONMENTAL FINDINGS, FILED BY ARSHAK PETROSYAN, PROPERTY LOCATED ON THE NORTH SIDE OF W. HERNDON FRONTAGE ROAD BETWEEN N. SAN PABLO AND N. SUGAR PINE AVENUES
1. CONSIDER AND ADOPT E.A. NO. R-04-55/S-04-225, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. BILL NO. B-84 - ORDINANCE NO. 2005-87 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM R-1/EA TO C-6/EA

President Dages announced the time had arrived to consider the issue and opened the hearing. Planner Beedle gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

146-30

8/16/05

Barbara Hunt, 2475 S. Walnut, spoke in support.

Upon call, no one else wished to be heard and President Dages closed the hearing.

On motion of Councilmember Calhoun, seconded by Councilmember Perea, duly carried, RESOLVED, the finding of conformity for E.A. No. R-04-55/S-04-225, issued on June 29, 2005, that the project proposal conforms to the provisions of the 2025 Fresno General Plan MEIR hereby approved, and the above entitled Bill No. B-84 rezoning the subject property adopted as Ordinance No. 2005-87, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

(10:30 A.M.) HEARING ON THE POLICE DEPARTMENT TOW CAR ROTATION PROGRAM

1. BILL NO. B-85 - AMENDING THE FRESNO MUNICIPAL CODE RELATING TO THE PROGRAM

2. BILL NO. B-86 - GRANTING CERTAIN TOWING OPERATORS A NON-EXCLUSIVE FRANCHISE TO PARTICIPATE IN THE PROGRAM

President Dages announced the time had arrived to consider the issue and opened the hearing. Chief Dyer gave an overview of the issue, all as contained in the staff report as submitted, and recommended the bills be introduced.

Barbara Hunt, 2475 S. Walnut, spoke in support of the issue.

President Dages briefly interrupted proceedings and recognized and welcomed Boy Scout Troop 25.

Continued speakers were: Ed Mason, 103 N. Thorne, Bauer's Auto Wrecking and Towing, support for the bills except for the new police department fee structure for each tow; Kevin McCracken, Bulldog Towing, support; John Decicco, Action Towing, support; and Joe Petz, Owner/Operator Joe's Towing, and Vice President of Central Valley Tow Truck Association, support.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Capt. Hall responded to questions of Councilmember Boyajian relative how a company gets on the tow list, criteria to get on the list, how a company gets off the list (**4 - 0**), if the list would be reduced, who monitors the list, and additional questions on the program including process, referrals, grievances and rationale for fee.

Councilmember Sterling spoke to the issue, commended staff for working with the tow industry and being sensitive to the community, and commended the tow companies for their input and participation and made a motion to introduce the ordinance bills. Councilmember Westerlund spoke to Mr. Bauer's unique position and commended him and the other tow companies for their service to the industry and community.

On motion of Councilmember Sterling, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled Bill Nos. B-85 and B-86 introduced before the City Council and laid over, by the following vote:

Ayes	:	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes	:	None
Absent	:	None

(10:45 A.M.) HEARING RELATING TO CONSTRUCTION OPTIONS FOR THE MONTEREY STREET SEPARATION

OVERHEAD BRIDGE LOCATED BETWEEN BROADWAY AND "G" STREETS

President Dages announced the time had arrived to consider the issue and opened the hearing.

146-31

8/16/05

Councilmember Sterling made opening remarks and thanked staff, spoke briefly to the bridge and issues relative to its closure, stated not enough information/facts had been disseminated to the public on the matter, status and options, and stated this hearing would provide the appropriate information to all concerned and affected.

Project Manager Bullis gave an overview of the issue including the background, structural damage, the closure, the study/evaluation that was conducted, repair options/alternatives, and funding, all as contained in the staff report as submitted, and recommended Council select seismic retrofit as the preferred option for repair of the bridge (Option 1).

Speaking to the importance of the bridge and to the need to repair it and/or in support of staff's recommendation were: Barbara Hunt, 2475 S. Walnut; Larry Arce, CEO, Fresno Rescue Mission; Rod Frankian, area business owner; Mikala Lewis, southwest resident; Norman Nelson, owner of two southwest businesses; Kenneth Lust, southwest business owner; Pastor Harry Miller, Fresno Temple Church of God in Christ, 208 "E" Street; Pastor O.J. Johnson, whose church faces the overpass; Pastor Willie Moore, representing the West Fresno Ministry Alliance; and Bessie Miller, member of a church in the area.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Councilmember Sterling questioned the time frame to repair the bridge and if a funding source for the match funds had been found (with Mr. Bullis responding), requested staff look into and address the railroad crossing arms issue to make the transition easier, and acknowledged the closure has been an inconvenience but stated the positives had to now be looked at including jobs, and made a motion to approve staff's recommendation for Option 1, which motion was seconded and later acted upon.

Mr. Bullis responded briefly to questions/ comments of Councilmember Westerlund relative to definition of "spalling", when the State relinquished the bridge to the City, and need to seek financial assistance from the State due to bridge problems being observed before the bridge was relinquished to the City. City Manager Souza, Mr. Bullis, Assistant Design Services Manager Mozier and Councilmember Boyajian responded to questions, comments and concerns of Councilmember Calhoun at length relative to the downtown transportation study, how this matter fit into that study, if the bridge was looked at in that study, why demolishing was not presented as an option, if a CEQA process pertained here, why staff did not look at the bridge as part of the study, need to do the right thing and not rush, what was involved in Option 2, lack of details and information being presented this date, perception of wanting to do a "slam dunk", if the Redevelopment Agency weighed in on this matter due to the proposed Forest City project (**5 - 0**), and concerns with just learning about this matter last Friday, the RDA not reviewing it, and the large amount of money involved. Councilmember Calhoun stated all the options had not been adequately explored, the matter was "sloppily" handled, he could not support the motion as he had too many questions at this time, and suggested the matter be sent back to staff to return with all options.

Discussion continued. Councilmember Boyajian stated the closure was a big issue to the community and he would be supporting them in this matter, and questioned if the City inspected the bridge or had the ability to inspect it before taking it over, with Public Works Director Healey responding. Councilmember Sterling spoke further to the need and importance of the bridge to the community and stated she agreed with one speaker stating Council would not be "quibbling" if this was occurring in the north part of the city. Councilmember Duncan concurred and questioned what could be done to have the project done sooner than 24 months (with Mr. Healey responding), and requested staff contact him if he could help in any way to expedite the project. Mr. Souza stated this was not sloppy staff work, clarified staff was only asking for direction -- not money, and stated Councilmember Calhoun's comments were unwarranted and the City needed to get the bridge back in operation. Councilmember Boyajian took exception to the comment that the matter would have been addressed more quickly if it was in north Fresno stating a lot was going on in the south area and explained, with Mr. Souza concurring.

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, **RESOLVED**, receipt of the bridge rehabilitation study hereby acknowledged; seismic retrofit selected as the preferred option for repair of the Monterey Street Separation and Overhead Bridge (Option 1); and staff directed to pursue Federal Highway Bridge Replacement and Rehabilitation (HBRR) funding for seismic retrofit of the bridge, by the following vote:

Ayes :	Boyajian, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	Calhoun
Absent :	None

(11:00 A.M.) HEARING ON REZONE APPLICATION NO. R-04-64 AND ENVIRONMENTAL FINDINGS, FILED BY PAUL ATMAJIAN, WEST SIDE OF S. MINNEWAWA BETWEEN E. KINGS CANYON AND E. BUTLER AVENUE

146-32

8/16/05

1. CONSIDER AND ADOPT E.A. NO. R-04-64/T-5387/C-05-170, FINDING OF CONFORMITY TO THE GENERAL PLAN MEIR
2. BILL - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM AL-20 TO R-1-C

President Dages announced the time had arrived to consider the issue and opened the hearing. City Attorney Montoy recused herself from the proceedings stating she lived near the subject area and left the meeting at 11:55 a.m.

Planner Fabino gave an overview of the issue, all as contained in the staff report as submitted, and recommended approval.

Speaking to the issue were: Gary Giannetta, representing the applicant, who requested support and advised he was available to answer any questions; and Barbara Hunt, 2475 S. Walnut.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Mr. Fabino and Chief Assistant City Attorney Sanchez responded to questions and comments of Councilmember Boyajian and President Dages relative to whether adjacent vacant areas would be developed in the future, if a traffic study would be conducted, the cumulative impacts that would occur with future projects, and if this matter would be coming back before Council or if this was final action. Upon being told this was final action President Dages stated development was happening so fast in the area and he wanted to table the matter as he did not know anything about the project, and added he has requested several times that staff contact/inform him of any southeast development projects.

On motion of President Dages, seconded by Councilmember Duncan, duly carried, RESOLVED, the above entitled 11:00 a.m. hearing on R-04-64 tabled one week to August 23, 2005, at 11:00 a.m., by the following vote:

Ayes :	Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
Noes :	None
Absent :	None

LUNCH RECESS - 12:04 P.M. - 2:02 P.M.

(2:00 P.M. #1) CONTESTED CONSENT CALENDAR:

(1-B) APPROVE A PROFESSIONAL SERVICES AGREEMENT WITH RRM DESIGN GROUP IN THE AMOUNT OF \$146,303 FOR PREPARATION OF A SPACE NEEDS ASSESSMENT STUDY FOR A NEW JOINT FIRE/LAW ENFORCEMENT ADMINISTRATION COMPLEX AND COMMUNICATIONS DISPATCH CENTER FOR THE FIRE DEPARTMENT, POLICE DEPARTMENT, AND FRESNO COUNTY SHERIFF'S DEPARTMENT, AND AUTHORIZE THE CITY MANAGER OR DESIGNEE TO EXECUTE SAME

Public Works Director Healey, Chief Bruegman and Chief Dyer responded to questions and comments of Councilmember Westerlund at length relative to what the Sheriff's Department was asking the City to go forward with at this time, if they were only interested in the communications/dispatch center, how this space needs assessment fit into the RFQ issued by the City a few years ago, if the Sheriff's Department was definitely out of the joint headquarters, numerous questions on the study and what would be assessed, a joint headquarters making economic sense, the contract being unclear as to what is being planned, funding source for the contract cost, and what projects were being deferred to pay for the study.

Councilmember Perea stated he was disappointed the Sheriff's Department decided to pull out of a joint headquarters and communications center, and relative to location questioned if two buildings would be built if the Sheriff's Department insisted on building only on one of their proposed sites, with Chief Dyer responding. A motion and second was made to approve staff's recommendation.

Councilmember Calhoun stated there was no need to rush, referenced the letter from County Administrative Officer Bohn and stated he wanted to take him up on his offer to share their thoughts on the matter, added he felt this was a little premature and the City and

County needed to improve communications, and made a motion to table the matter

A motion of Councilmember Calhoun, seconded by Councilmember Westerlund, to table the matter one week or until Fresno County officials can be present at a Council meeting to discuss the matter failed, by the following vote:

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Ayes : Calhoun, Sterling, Westerlund
 Noes : Boyajian, Duncan, Perea, Dages
 Absent : None

Upon question of City Manager Souza, Chief Dyer confirmed the County approved participating in the study as everyone agreed a spatial analysis needed to be conducted first and added once that study was completed City and County elected officials should engage in further discussions. Mr. Souza stated discussions could occur *while* the study was being conducted **(6 - 0)** and clarified the two separate but related parts of this puzzle were what are the space needs, and once that is known where should it be located.

Chief Dyer responded to questions of Councilmembers Westerlund and Calhoun relative to whether there was a commitment from the County for a joint dispatch center, if there was some mandate from the federal government that required a joint center, what the true levels of commitment were, hope that there would not be disagreement on the location, and why the County was only paying \$20,000 of the total cost for the study. Councilmember Calhoun reiterated he did not want this rushed through, stated maybe some discussions among the upper level, key political players would result in something a little bigger, stated talks between the two entities needed to be conducted in the open rather than using the two chiefs as the intermediaries, and again made a motion to table the matter until the County can come before Council, which motion died for lack of a second. Councilmember Calhoun stated he would not support the motion on principal.

Councilmember Boyajian stated things were not being rushed as this matter has taken a long time, and along with President Dages presented questions relative to what the study would entail, if alternatives would be included, why this has taken so long, and if RRM could be asked to do the study with and without the County, with Mr. Healey and Mr. Souza responding. President Dages stated a joint center was good business and questioned if the County realized taxpayer dollars were involved and taxpayers would get a bigger bang for their buck by consolidating.

On motion of Councilmember Perea, seconded by Councilmember Duncan, duly carried, RESOLVED, the agreement with RRM Design group in the amount of \$146,303 for professional services for preparation of a Space Needs Assessment Study for a new Joint Fire/Law Enforcement Administration Complex and Communication Center hereby approved, and the City Manager, or designee, authorized to execute the agreement, by the following vote:

Ayes : Boyajian, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : Calhoun
 Absent : None

Councilmember Calhoun spoke to the City-County Blue Ribbon Commission (BRC) issue he brought to Council some time back that Council unanimously supported, noted he was told at a public Board of Supervisors meeting his idea was dumb when he presented it to them and he was very embarrassed and hoped that was not what the City was dealing with, and spoke to what a BRC would do and clarified his vote was not a criticism of staff.

(1-E) RESOLUTION NO. 2005-349 - APPROVE A CONTRIBUTION AGREEMENT WITH CALTRANS FOR USE OF CLOVIS AVENUE AS A FREEWAY DETOUR BETWEEN FREEWAY 180 EAST AND KINGS CANYON ROAD AND AUTHORIZING THE PUBLIC WORKS DIRECTOR OR DESIGNEE TO SIGN THE AGREEMENT

President Dages stated his problem was with the word "proposed" and questioned if the \$111,000 would be used *specifically* for the matching funds and not some other use, and if work/repairs would occur on Kings Canyon between Chestnut and Clovis Avenues, with Assistant Design Services Manager Mozier, City Manager Souza and City Attorney Montoy responding throughout. Councilmember Westerlund questioned if the City could request additional money for wear and tear if for some reason Caltrans does not finish their project on time, with Mr. Souza responding.

On motion of President Dages, seconded by Councilmember Westerlund, duly carried, RESOLVED, the Contribution Agreement with the California Department of Transportation (Caltrans) for use of Clovis Avenue as a freeway detour between Freeway 180 East and

Kings Canyon Road hereby approved, and the above entitled Resolution No. 2005-349 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

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(1-F) RESOLUTION NO. 2005-350 - CONSIDERING A CHANGE IN THE RATE AND METHOD OF APPORTIONING THE SPECIAL TAX AND ESTABLISHING A NEW MAXIMUM SPECIAL TAX FOR ANNEXATION NO. 93, FINAL TRACT 5141 OF CFD NO. 2 (INITIATING THE ANNEXATION PROCESS AND SETTING A PUBLIC HEARING FOR SEPTEMBER 20, 2005, AT 10:00 A.M.)

Councilmember Westerlund stated he had a problem with changes being made after approval, developers having buyer's remorse, and staff having to change the parameters, with Public Works Director Healey responding. Councilmember Westerlund stated he would oppose the matter on general principal. Councilmember Calhoun stated this showed the process was working, developers were making changes within their legal right, nothing required developers to install landscaping, and the main issue to him was whether there was enough money to maintain the landscaping. Upon question of Councilmember Boyajian, Mr. Healey further explained the process and what was at issue, and City Attorney Montoy clarified this matter was more like a notice of intent, this resolution would begin the process by setting a public hearing, a final determination would be made at the hearing, and added the title itself may have caused some confusion as it is usually called a *Notice of Intent* to set a hearing and this one said *consideration*.

On motion of Councilmember Duncan, seconded by Councilmember Perea, duly carried, RESOLVED, the above entitled Resolution No. 2005-350 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Dages
 Noes : Westerlund
 Absent : None

(1-I) RESOLUTION NO. 2005-351 - 4TH AMENDMENT TO SALARY RES. 2005-290 MODIFYING THE JOB TITLES OF "UTILITY SERVICE REPRESENTATIVE III" TO "SENIOR UTILITY SERVICE REPRESENTATIVE", AND "DEPARTMENT COMPUTER SPECIALIST" TO "BILLING SYSTEM SPECIALIST"

Assistant Personnel Services Director Chavez responded briefly to questions of Councilmember Boyajian relative to who determines/makes the changes in job titles, if the positions were currently vacant, and if a recruitment process would be undertaken.

On motion of Councilmember Boyajian, seconded by Councilmember Westerlund, duly carried, RESOLVED, the above entitled Resolution No. 2005-351 hereby adopted, by the following vote:

Ayes : Boyajian, Calhoun, Duncan, Perea, Sterling, Westerlund, Dages
 Noes : None
 Absent : None

(2:30 P.M.) MEETING OF THE REDEVELOPMENT AGENCY

The City Council recessed at 3:09 p.m. and convened in regular session as the Redevelopment Agency.

APPROVE AGENCY MINUTES OF JULY 19 AND 26, 2005

On motion of Vice Chair Westerlund, seconded by Chair Boyajian, duly carried, RESOLVED, the Agency minutes of July 19 & 26, 2005, approved as submitted.

("A") AWARD A CONTRACT TO HOBBS CONSTRUCTION FOR CLOSURE OF SANTA CLARA STREET BETWEEN "N" AND "O" STREETS

Executive Director Murphey gave an overview of the issue **(7 - 0)**, all as contained in the staff report as submitted, recommended approval, and gave a brief update on the state courthouse project. Chair Boyajian confirmed construction on the 5th Appellate Court would start before the end of the year and stated that was good news for the City.

On motion of Member Duncan, seconded by Member Sterling, duly carried, RESOLVED, a contract in the amount of \$25,860 hereby awarded to Hobbs Construction for the closure of Santa Clara Street between "N" and "O" Streets, by the following vote:

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Ayes : Calhoun, Dages, Duncan, Perea, Sterling, Westerlund, Boyajian
 Noes : None
 Absent : None

The Redevelopment Agency adjourned its meeting at 3:13 p.m. and the City Council reconvened in regular session.

(3-A) DISCUSSION AND DIRECTION TO STAFF TO IDENTIFY ADDITIONAL FUNDING TO REPAIR AND RESTORE THE DETERIORATING CITY LANDSCAPING EASEMENTS - COUNCILMEMBER CALHOUN

Councilmember Calhoun read his memo as submitted to Council into the record, advised this has been the most pressing problem he has dealt with while serving on the Council and stressed additional resources were needed to address it, and made a motion to direct staff to appropriate a minimum of \$500,000 in additional resources to city landscape replacement and maintenance, which motion was seconded and later acted upon.

Councilmember Boyajian stated he opposed transferring the function from parks & recreation to public works at the outset, stressed there had been no problem when parks & recreation was doing the work but there was now and he was very upset as his district has been adversely affected, and elaborated further on the problem and on his concerns and questioned exactly how much money was needed to address the matter, with Public Works Healey responding. Lengthy discussion ensued with City Manager Souza, Mr. Healey, Councilmember Calhoun and City Attorney Montoy responding to questions and/or comments of Councilmembers Sterling, Perea, Westerlund and Duncan relative to the No Neighborhood Left Behind (NNLB) Program funds and equipment, the major improvements made and seen in Council District 3, what exactly Councilmember Calhoun was asking for, what \$500,000 would do/how it would better the situation, where the \$500,000 figure came from **(8 - 0)**, specific problem locations, the agenda title being unclear and what exactly the money would be spent on, and request for staff to return with an action plan for the \$500,000. Mr. Souza stated it was clear the City needed to get pro-active and ahead of the curve, spoke to the actions taken this morning and stated a very aggressive plan was now in place, and concurred with Mr. Healey's request to give staff the time to get the plan in place. Councilmember Duncan thanked and acknowledged "team median" for their excellent work, stated he did not feel action needed to be taken this date since staff would be presenting in a few weeks a plan/strategy and the dollar amount needed to solve the problem, and added \$500,000 should not just be arbitrarily thrown at an unknown problem and he looked forward to seeing the information to make an educated decision. President Dages thanked staff for doing a great job stating southeast Fresno was looking a lot better.

On motion of Councilmember Calhoun, seconded by Councilmember Boyajian, duly carried, RESOLVED, staff directed to appropriate a minimum of \$500,000 in additional resources for city landscape replacement and maintenance, by the following vote:

Ayes: : Boyajian, Calhoun, Perea, Sterling, Westerlund, Dages
 Noes : Duncan
 Absent : None

(3-B) REQUEST FOR A REPORT ON HOW THE CITY'S LOW CRIME RATE STATISTICS ARE COMPILED - COUNCILMEMBER BOYAJIAN

Request made by Councilmember Boyajian and upon his question City Manager Souza stated staff would report back by tray memo within two weeks and added Councilmember Boyajian could schedule the matter on the agenda after that if desired. There was no further discussion.

(4:00 P.M.) HEARING ON REZONE APPLICATION NO. R-03-44 AND AN APPEAL OF THE PLANNING COMMISSION'S ACTION REGARDING CUP NO. C-03-158, AND ENVIRONMENTAL FINDINGS, FILED BY WESTSIDE AUTO DISMANTLERS, N. MARKS AND W. BELMONT AVENUES

1. CONSIDER AND ADOPT MITIGATED NEGATIVE DECLARATION FOR E.A. NO. R-03-44/C-03-158

2. RESOLUTION - APPROVING CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-03-158 (*Planning Commission recommendation*) - **NOT ADOPTED**

3. RESOLUTION NO. 2005-352 - APPROVING CONDITIONAL USE PERMIT (CUP) APPLICATION NO. C-03-158 (*Staff recommendation*), **AS AMENDED**

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8/16/05

4. BILL NO. B-87 - ORDINANCE NO. 2005-88 - AMENDING THE OFFICIAL ZONE MAP TO REZONE THE SUBJECT PROPERTY FROM M - 3 (COUNTY) TO M - 3 (HEAVY INDUSTRIAL)

President Dages announced the time had arrived to consider the issue and opened the hearing.

Councilmember Sterling stated it had been a long time to get this project to this point and thanked staff and everyone else involved, spoke to issues Westside Auto Dismantlers (and other businesses) had to deal with with Caltrans and the City relative to the need to relocate and sites proposed and looked at, stated after the applicant spent much time and money they settled on this site, and advised this project would be state of the art and second to none in this area, clarified the applicant was told to move, they wanted to stay in the city, and great stipulations were placed on the project, and stated she was proud to have this business in her district and she was hoping for a supportive conclusion.

Planner Stiglich gave an in-depth PowerPoint presentation on the project using maps and photographs to illustrate, advised a condition agreement was recently reached for an 11-foot high wall/berm along the east and west property lines, an 11-foot wall on the north property line and an 13-foot high wall on the south property line, and recommended approval subject to the conditions of approval and the surrounding wall/berm changes.

Al Solis, Sol Development Associates, 2344 Tulare, Ste. 301, on behalf of the applicant, spoke further to related issues, concerns, and specifics of the project, using maps, photos and graphics to illustrate, and submitted written material into the record, a copy of which is on file in the office of the city clerk.

Speaking in support of the project were: Charlie Waters, representing the Veterans Council, Chuck Parnell, President, Central California Veterans Home Support Foundation; and Father John Morton, Pastor of Our Lady of Victory Church.

Upon call, no one else wished to be heard and President Dages closed the hearing.

Mr. Guerrero, applicant, responded briefly to questions of Councilmember Sterling relative to the oil extraction facility and the car crushing operation, and requested Council's support stating this was going to be a very nice project. Councilmember Sterling stated she was now hearing things/concerns about the Roeding Business Park (RBP) and stated this project was an extension of the park and she hoped it would be built and operating sooner than the RBP, reiterated the Guerreros were told to move, again thanked the applicant and all involved for negotiating and making concessions stating this was an important project, and made a motion to approve staff's recommendation, which motion was seconded and later acted upon.

Councilmember Westerlund thanked the applicant for bringing this project forward but stated he could not support it due to (1) the location stating the property might be needed for railroad access to the RBP area for future RBP companies, and (2) it would be impossible to develop the property to the west and explained, and added he was very committed to the RBP area and to protecting it. Councilmember Boyajian commended the Guerreros, stated they were in the middle, and presented questions/comments at length relative to whether the City talked with the Agency about the location and the rail access issue, what the major issues were for the Agency's opposition to the project location, if the Agency communicated their concerns to the City and if the City provided comments, if the RDA was involved in mitigation discussions, if the Agency's concerns still stood, developers interested in locating in the RBP and the importance of rail access, if the City communicated concerns to the Agency, if the City has been in discussions with developers interested in the RBP, if an EIR or noise study would be conducted, the bigger issues of rail access and jobs being looked at, what the West Area Committee's (WAC) concerns were, what the difference was with this project and the transfer station project, and if the WAC was concerned about project's noise, with Agency Director Murphey, City Manager Souza, Planning & Development Director Yovino and

WAC member Terry Cox responding throughout.

Councilmember Sterling questioned if all the RBP land had been assembled yet and if this project would obstruct RBP rail access, with Mr. Yovino responding. Councilmember Sterling emphasized the Guerreros had been trying to find a site for two years now and expressed concern that all of sudden these issues of rail access and a master developer for the RBP were being brought up and elaborated, and stated Council needed to take a chance, urged approval, and suggested the project be included as part of the RBP.

Councilmember Perea questioned how much property the City owned in the RBP and if expansion was being looked at, with Ms. Murphey responding; stated he had a concern that some members wanted to hold off on this project with the hope that the RBP would develop and/or another employer would come in; and stated he did not understand the opposition and it would be a disservice if the project were denied.

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Councilmember Calhoun concurred with Members Sterling and Perea, advised when he took a tour of the park with former Director Fitzpatrick there was no discussion of railroad access or of someone else wanting the property, stated he was perplexed as to why these issues were now being brought up, and expressed his support for the project. President Dages advised he also toured the park and stated he was pleased the Guerreros were investing \$2 million in a blighted area and creating jobs out there noting there has been a lot of talk about creating 20,000 jobs that never happened, and advised he was unaware that \$14 million had been invested out there until just now, and stated he was surprised at the amount and it created some questions that he would address later with the RDA director.

Mr. Stiglich reiterated and clarified for the motion the south side of the property would have a 13-foot wall and the other sides would have 11-foot walls.

On motion of Councilmember Sterling, seconded by Councilmember Perea, duly carried, RESOLVED, the environmental finding of a Mitigated Negative Declaration for E.A. No. R-03-44/C-03-158, dated March 31, 2005, hereby approved; the above entitled Bill No. B-87 rezoning the subject property adopted as Ordinance No. 2005-88; the appeal upheld; and the above entitled Resolution No. 2005-352 (staff recommendation) hereby adopted approving CUP No. C-03-158 to allow for the development of the subject property with an automobile wrecking yard, subject to the conditions of approval and Exhibits A thru C dated May 26, 2005, and the additions and modifications to the conditions of approval, all contained in the staff report, *and as amended* to allow for an 11-foot high wall/berm along the east, west and north property lines and a 13-foot high wall on the south property line, by the following vote:

Ayes :	Calhoun, Perea, Sterling, Dages
Noes :	Boyajian, Duncan, Westerlund
Absent :	None

(2:00 P.M. #2) CLOSED SESSION:

("B") CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAME:

3. COF V. GARFIELD PARK HIGHLANDS, ET AL

("C") CONFERENCE WITH LEGAL COUNSEL - DECIDING WHETHER TO INITIATE LITIGATION - POTENTIAL CASE NAME: COF V. NATIONAL RAILROAD PASSENGER CORP. (AMTRAK)

"B-3" and "C" laid over.

("A") CONFERENCE WITH LABOR NEGOTIATOR - EMPLOYEE ORGANIZATIONS:

1. FRESNO POLICE OFFICERS ASSOCIATION (FPOA) MANAGEMENT UNIT 9
2. FRESNO POLICE OFFICERS ASSOCIATION (FPOA) NON-SUPERVISORY UNIT 4
3. FRESNO CITY EMPLOYEES ASSOCIATION (FCEA)

("B") CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION - CASE NAMES:

1. WESTBURG V. COF (HALFERTY, REAL PARTY IN INTEREST)

- 2. COF V. PINEDALE PUBLIC UTILITY DISTRICT
- 4. FRESNO POLICE OFFICERS ASSOCIATION (FPOA) V. COF, ANDREW T. SOUZA

The City Council met in closed session in Room 2125 at the hour of 5:26 p.m. to consider the above issues and adjourned thereafter.

ADJOURNMENT

There being no further business to bring before the Council, the hour of 5:48 p.m. having arrived and hearing no objections, President Dages declared the meeting adjourned.

Approved on the ____23rd____ day of ____August____, 2005.

_____/s/_____
Mike Dages, Council President

ATTEST:_____/s/_____
Yolanda Salazar, Assistant City Clerk